

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

Blue Spike, LLC,

Plaintiff,

v.

Texas Instruments, Inc., et al.,

Defendants.

CASE NO. 6:12-cv-499 MHS

LEAD CASE

Jury Trial Demanded

Blue Spike, LLC,

Plaintiff,

v.

ACTV8, Inc.,

Defendant.

CASE NO. 6:12-CV-582 MHS

CONSOLIDATED CASE

Jury Trial Demanded

AGREED MOTION TO DISMISS ACTV8, INC.

Plaintiff Blue Spike, LLC, on the one hand, and Defendant ACTV8, Inc., on the other, have reached a settlement of the above-captioned matter and have agreed to dismiss the claims, counterclaims, and causes of action between them.

Accordingly, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Blue Spike, LLC stipulates to the dismissal without prejudice of all claims and causes of action asserted in this case against defendant ACTV8, Inc., and defendant ACTV8, Inc. stipulates to the dismissal without prejudice of all counterclaims and defenses asserted in this case against Blue Spike, LLC. The parties shall bear their own attorneys' fees, expenses and costs.

By: /s/ Randall T. Garteiser
Randall T. Garteiser
Lead Attorney
Texas Bar No. 24038912
rgarteiser@ghiplaw.com
Christopher A. Honea
Texas Bar No. 24059967
chonea@ghiplaw.com
Christopher S. Johns
Texas Bar No. 24044849
cjohns@ghiplaw.com
GARTEISER HONEA, P.C.
218 North College Avenue
Tyler, Texas 75702
(903) 705-0828
(903) 526-5477 fax

Kirk J. Anderson
California Bar No. 289043
Peter S. Brasher
California Bar No. 283992
GARTEISER HONEA, P.C.
44 North San Pedro Road
San Rafael, California 94903
(415) 785-3762
(415) 785-3805 fax

ATTORNEYS FOR BLUE SPIKE, LLC

By: /s/ Myra Mormile-Wolper
David R. Yohannan (*Pro Hac Vice*)
KELLEY DRYE & WARREN LLP
The Washington Harbor
3050 K Street, N.W., Suite 400

Washington, D.C. 20007
Tel: (202) 342-8616
dyohannan@kelleydrye.com

Myra C. Mormile-Wolper (*Pro Hac Vice*)
KELLEY DRYE & WARREN LLP
333 W. Wacker Drive, Suite 2600
Chicago, IL 60606
Tel: (312) 857-2501
mmormile-wolper@kelleydrye.com

Allen Franklin Gardner (Texas Bar No. 24043679)
Michael E. Jones (Texas Bar No. 10969400)
Daniel A. Noteware, Jr. (Texas Bar No. 24051123)
POTTER MINTON, P.C.
110 N. College, Suite 500
Tyler, Texas 75702
Telephone: 903-597-8311
Facsimile: 903-593-0846
allengardner@potterminton.com
mikejones@potterminton.com
dannynoteware@potterminton.com

Attorneys for Defendant ACTV8, Inc.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Federal Rule of Civil Procedure 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email.

/s/ Randall T. Garteiser